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## THE BROOKE FAMILY OF VIRGINIA.

## WILL OF WM. BROOKE, 1735.

Will of William Brooke,<sup>1</sup> son of Robert and his wife, Catherine (Booth) Brooke, and brother of Humphrey and of Robert, the Knight of the Golden Horseshoe, whose will was published in the April, 1902, number of this magazine:

In the name of God, Amen. I, William Brooke, of St. Anne's Parish, in Essex Co., being of sound mind and memory, make this my last Will and Testament. I render my soul into the hands of God that gave it, and desire my Body may be decently buried at the discretion of my Executors, my will is that all my just debts be paid, 2ndly, I desire and require that my Executors purchase Gatewood's land adjoining to that I now live on if it is to be sold, and 3rdly, I give the land I now live on with that I purchased of Edward Murray and the house and Lands I bought of Thomas Plummer (for the Legal Convoyant of which I have his Bond), to my beloved Wife during her natural life. 4thly, my Will is that the house I bought of Thomas Plummer be removed and fitted up by my dwelling house for the use of my Wife. 5thly, if the child my Wife now goes with be a male I give him the Lands above mentioned after his mother's decease, to him and his heirs forever.(a) But if a Female I give the said lands in the same manner to my daughter Sarah. 6thly. If the child my Wife goes with be a male I give my Daughter Sarah the land I have in Common with Messrs. George Braxton, Sen'r & Jun'r and *my two Brothers*,\* not doubting but friendship would oblige them to make her a Title tho' the law may not.(b) I give the said Land to her and her heirs forever.(c) But if the Child my Wife goes with be a Female then I give the said mountain Land to that Child and her heirs forever. 7thly, I give my Negroes and personal Estate after Gatewood's land is purchased and my Debts paid to be equally divided between my loving Wife, my daughter & the child my Wife now goes with, and if either of my Children should die before their Mother and before they become of age or marry, Then my will is that Child's share of my Negroes and personal Estate be divided between the mother and the surviving Child. 8thly, my Will is that my Wife have her share of the Negroes but during her natural life except she should survive her children Sarah and the Child she now goes with and they die before they come of age or marry, in that case I give her her share of the Negroes forever. 9thly. I appoint my loving *Wife*,\* my *Brother*\* Humphrey and my friend Robert Rose Clerk Executors of this my last

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\* The italics are ours. The two brothers were Robert Brooke, Jr., and Humphrey. Sr

Will and Testament. In Testimony whereof I sign these presents this fourth day of April, 1734.

WM. BROOKE.

Nicho' Battaile,  
David M. Cochran

At a Court held for Essex Co. on the sixth day of November Anno Domini, 1735, the above last Will and Testament of William Brooke, gent., dec'd, was proved by the oath of David Cochran, one of the Witnesses thereto.

Teste: W. BEVERLEY, C. C.

At a Court held for Essex County on the [word cannot be made out] March, Anno Dom. MDCCXXXV, Mrs. Sarah Brooke(*d*) made oath as the law requires as Executrix of this last Will and Testament of William Brooke, gent., dec'd, and being also proved by the oath of Nicholas Battaile, a Witness thereto, the said Will is admitted to record.

Teste: W. BEVERLEY, C. C. Cur(*e*)

A true Copy Examined by [name can't be read], C. C. C.

NOTES.

(*a*) This child proved to be a son and was named William; he married Ann Benger; he was called William "the younger" to distinguish him from his first cousin, William "the elder," who was the second son of Robert Brooke, Jr. (the "Knight of the Golden Horseshoe"). This William Brooke "the elder" married — Fontaine, and this couple were the great-grandparents of the late Hon. James Vass Brooke, of Warrenton, Va.

(*b*) "tho' the law may not." The *lawyer* at least will be interested to observe that William Brooke knew enough law to know that as he and his "two brothers" were joint tenants of the Brookesby tract, when any one of them died his share would go, not to his *heirs* or *devises*, but to the survivors or survivor until the last survivor would ultimately get the whole tract. This right of survivorship (*jus accrescendi*) could be defeated as to any joint tenant's share by his making a *deed* of conveyance but could not be defeated by his *will*. This law explains this passage of the will (see this magazine, April, 1903, page 445).

(*c*) This was the Brookesby tract of ten thousand acres in Orange county, for which a patent was issued to six parties, viz: George Braxton, Sr., George Braxton, Jr., James Madison and the three brothers, Robert, Humphrey and William Brooke. James Madison seems to have sold out, for the whole tract became the property of the five others. (See this magazine, April, 1903, page 445; *Id.*, April, 1902, page 447.

(*d*) As the testator appointed "my loving wife" one of his executors, this qualification of "Mrs. Sarah Brooke" proves that she was the

"loving wife," else she could not possibly have qualified as *executrix* of the testator.

(e) The will of the third brother, Humphrey, Sr., could doubtless have been found but for the unfortunate burning of the courthouse of King William county and of the records therein. The will of his son, Robt., could doubtless also have been found but for the same unfortunate event. We have the wills of the other two sons, George, of Mantapike, and Humphrey, of Fauquier. If the will of this Humphrey Brooke, Sr., could have been found it would probably have developed the fact that he had daughters as well as three sons. The families of Gwathmey and Doswell have Brooke lineal female ancestors, and Brooke is a Christian name among those families; but these Brooke lineal female ancestors cannot be located except by supposing them to have been daughters of old Humphrey Brooke, Sr. It is true we know nothing of the descendants of Humphrey Booth Brooke; but his daughters were great-granddaughters of Robert Brooke, Jr., and would probably have been too recent to be the lineal ancestors of the Gwathmays and Doswells. "Mollie" Brooke was the grandmother of Major J. T. Doswell, of Fredericksburg, Va.

Query—Was she a daughter of Humphrey Booth Brooke?

#### WILL OF JOHN TALIAFERRO, 1751.

Verbal will of John Taliaferro, December 25, 1750.

Spotsylvania—to-wit:

The deposition of William Robinson, of the said County, Gent., aged forty-three years, being duly sworn, deposeth and said that he was at the late dwelling house of John Taliaferro, (a) of the said County, Gent., lately dec'd on the twenty-fifth day of December in the year of our Lord One Thousand Seven Hundred and Fifty, where the said John Taliaferro was then lying very sick and weak, of which sickness he afterwards the same day died, that three or four hours before his death he called to his brother Francis Taliaferro, (b) of the said County, Gent., and also called or spoke to this deponent and declared to his said brother that he desired him to let his sister Brooke (c) have the two hundred pounds that Mr. Christopher Robinson at Urbanna owed him and that the said Francis would raise another hundred pounds and let her have it, and then the said John Taliaferro told the said Francis Taliaferro that all the rest of his estate he left to him and his children for him the said Francis to dispose of as he thought proper, and this deponent verily believes the said John Taliaferro at the time of making such disposition of his estate as aforesaid was of sound and perfect mind and memory; and further this deponent saith not.

W. ROBINSON.

At a court held for Spotsylvania County on Tuesday, September, 3rd, 1751, William Robinson, Gent, made oath to the above deposition in open Court, which was ordered to be recorded.(d)

Test EDMUND WALLER, Clk. Court.

A true copy from the Record Will Book B., folio 80.

Test J. P. H. CHRISMOND, C. C.

NOTES.

(a) Son of Lawrence Taliaferro and of his wife Sarah Taliaferro.

(b) Francis Taliaferro, of "Epsom," who married Elizabeth Hay, daughter of Robert Hay, and of his wife, Rachel —. Robert was the son of John Hay, and of his wife, Mary Wade, daughter of Armiger Wade (*William and Mary Quarterly*).

(c) This "sister Brooke" could not possibly have been any other than Mrs. Sarah (Taliaferro) Brooke, widow of William Brooke;<sup>1</sup> because at the date of the will (1750) no other Miss Taliaferro had married a Brooke. At the date of this will, Richard Brooke, of "Smithfield," who married two Misses Taliaferro, was only eighteen years old; and besides, his two wives were *nieces* (neither of them was a *sister*) of this John Taliaferro.

(TO BE CONTINUED)

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ERRATA.—In this magazine make the following corrections: P. 160, line 14, of note, for *Mr.* read *Dr.*; the note on Abraham Persey on p. 177 should follow the abstract of his will; p. 193, line 7, for *Thacher* read *Thacker*; on p. 194, in caption within brackets, for 1763 read 1673.